

(5) Other independent establishments that are entities of the Federal Government.

(b) *Creditor agency* means the agency to which the debt is owed.

(c) *Debt* means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

(d) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. NASA must exclude deductions listed in OPM's garnishment regulations at 5 CFR 581.105 (b) through (f) to determine disposable pay subject to salary offset.

(e) *Employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(f) *Paying agency* means the agency employing the individual and authorizing the payment of his or her current pay.

(g) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(h) *Waiver* means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 8346(b), or any other law.

§ 1261.603 Procedures for salary offset.

If NASA is both the paying and creditor agency, the following requirements must be met before a deduction is made from the current pay account of an employee.

(a) *Written notice.* The employee must be sent a minimum of 30 days written notice, which specifies:

(1) The origin, nature and amount of the indebtedness, and the official to contact within the agency (ordinarily, the designated financial management official for the particular installation);

(2) The intention of the agency to initiate collection of the debt through salary offset by deductions from the employee's current disposable pay, stating the amount, frequency, proposed beginning date, and duration of intended deductions (the amount to be deducted for any period, without the consent of the employee, may not exceed 15 percent of disposable pay);

(3) An explanation of any interest, penalties, or administrative costs included in the amount, and that such assessment must be made unless excused in accordance with 14 CFR 1261.412;

(4) The right for an opportunity (which does not toll the running of the 30-day period) to inspect and copy NASA records relating to the debt or to request and receive (if reasonable) a copy of such records, provided that such opportunity must be exercised on or before the 15th day following receipt of the notice and can be conducted only during official working hours for a reasonable period of time not to exceed 5 working days;

(5) If not previously provided, the opportunity (under terms agreeable to NASA) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the authorized agency official (see 14 CFR 1261.402) and documented in NASA's files (see 14 CFR 1261.407(d));

(6) An opportunity for a hearing, as provided in paragraph (c) of this section, on the agency's determination concerning the existence and amount of the debt, and the terms of the repayment schedule (in the case of an employee whose repayment schedule is established other than by written agreement);

(7) The hearing request should be addressed to the Office of the NASA General Counsel or to the Office of Chief Counsel of the NASA installation involved, as appropriate; counsel's name

and address will be as stated in the notice.

(8) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(9) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

(b) *Exception to entitlement to written notice.* NASA is not required to comply with paragraph (a) of this section for any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(c) *Petition filing; hearing; decision and review.* The notice described in paragraph (a) of this section should include the following provisions, which may be copied and attached to the notice.

(1) The employee may petition for a hearing, but such petition must be in writing and received by NASA on or before the 15th day following receipt of the notice, and include a statement of the reasons for such hearing. No particular form is required, and a timely, legible letter request (with the stated reasons) will suffice; however, the employee must sign the petition and include with it, with reasonable specificity, all the supporting facts and evidence, including a list of the witnesses, if any.

(2) The petition should be addressed to the agency counsel designated in the notice, but the hearing will be conducted by an official not under the supervision or control of the NASA Administrator or by appointment of an administrative law judge. Notice of the name and address of the hearing official will be sent to the employee within 10 days of receipt of petition. A hearing official will be designated on a case-by-case basis under reimbursable arrangements or through direct payment as events may warrant.

(3) The timely filing of the petition will stay the commencement of collec-

tion; and the final decision on the hearing will be issued at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings.

(4) Any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under Chapter 75 of Title 5, United States Code, 5 CFR part 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, sections 3729 through 3731 of Title 31, United States Code, or any other applicable statutory authority; or

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of Title 18, United States Code, or any other applicable statutory authority.

(5) The form and content of the hearing will be determined by the hearing official depending on the nature and complexity of the transaction giving rise to the debt. The hearing is not an adversarial adjudication, and need not take the form of an evidentiary hearing. However, depending on the particular facts and circumstances, the hearing may be analogous to a fact-finding proceeding with oral presentations; or an informal meeting with or interview of the employee; or formal written submissions, with an opportunity for oral presentation, and decision based on the available written record. Ordinarily, hearings may consist of informal conferences before the hearing official in which the employee and agency officials will be given full opportunity to present evidence, witnesses, and argument. The employee may represent himself or herself or be represented by an individual of his or her choice. The hearing official must maintain a summary record of the hearing provided under this subpart. For additional guidance, see 14 CFR 1261.503.

(6) The decision will be in writing and state:

(i) The facts purported to evidence the nature and origin of the alleged debt;

(ii) The respective positions of the agency and of the employee;